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November 18, 2011

Ms. Cynthia L. Bauer  
Chair  
Federal Election Commission  
999 E Street, N.W.  
Washington, DC 20463

RE: **MUR 6504**  
**William E. Gardner**  
**Wisconsin & Southern Railroad**

Dear Ms. Bauerly:

On behalf of William Gardner and Wisconsin & Southern Railroad, I would like to comment on the statements made at page 7, starting at line 12 where the Commission observes that the contributions might have been motivated to secure favorable government treatment for WSOR and the railroad industry. There is no evidence to support this statement. In open court at Mr. Gardner's sentencing proceeding held on July 7, 2011, Assistant District Attorney Bruce Landgraf stated "unequivocally that (the extensive investigation) found no indication of any pay to play activity...." He also stated that "there was no evidence of a ...quid pro quo, in exchange for these contributions of money that are set forth in the criminal complaint." A copy of pages 8 and 9 of the transcript of the hearing are enclosed.

In light of the above, we request that factual summary delete any and all references or suggestions that these contributions may have been motivated to secure any kind of favorable governmental treatment.

Thank you for your attention to this matter.

Very truly yours,

FRIEBERT, FINERTY &amp; ST. JOHN, S.C.

Robert H. Friebert

rff@ffa.com

RHF:las

Enclosure

cc: Mr. William E. Gardner (w/enc.)

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STATE OF WISCONSIN: CIRCUIT COURT: WASHINGTON COUNTY  
BRANCH I

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STATE OF WISCONSIN,  
PLAINTIFF,  
Vs. Case No. 2011-CF-000137  
WILLIAM E. GARDNER,  
DEFENDANT.  
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Sentencing Hearing  
BEFORE: Honorable James G. Poulos, Presiding Judge  
DATE: July 7, 2011, 1:30 p.m.

APPEARANCES  
BRUCE LANDGRAF, ESQ., Special Prosecutor,  
Safety Building, 821 West State Street  
Milwaukee, Wisconsin, 53233,  
Appeared on behalf of the State of Wisconsin.

DEAN ARTHUR STRANG, ESQ.,  
Attorney at Law,  
33 East Main Street, Suite 400  
Madison, Wisconsin, 53703-3095,  
Appeared with and for the Defendant

ROBERT H. FRISBERT, ESQ.,  
Attorney at Law  
Two Plaza East-Suite 1250  
330 East Kilbourn Avenue  
Milwaukee, Wisconsin, 53202,  
Appeared with and for the Defendant.

Katherine M. Lopez,  
Official Court Reporter  
P.O. Box 1986,  
West Bend, WI 53095  
(262) 335-4365

**COPY**

1 certainly I think these contributions were intended to  
2 enhance an ongoing relationship with the government.

3 I would note that it was very clear from the record that  
4 Mr. Gardner intended to contribute large sums of money to the  
5 Walker Campaign. He intended to raise \$100,000 on behalf of  
6 Mr. Walker's efforts, or in support of Mr. Walker's efforts.  
7 He was stopped in that quest at about the \$60,000 level. I  
8 have two observations in that regard. I expect it had -- the  
9 report not been filed by his former woman friend, that he  
10 would have continued on to make the entire contribution level  
11 that he promised he would make.

12 And secondly, I would not have been surprised if by the  
13 time of the candidates, excuse me, by the time of the  
14 governmental race, that he would have contributed to the  
15 democratic candidate as well.

16 He had a history of doing that in the past. He had a  
17 habit of contributing to both sides of aisle in former  
18 governor's races. And I do believe based upon my review of  
19 the evidence, that he personally did favor Mr. Walker. But  
20 perhaps consistent with his overall goals of maintaining a  
21 relationship with the State of Wisconsin, he would have  
22 ultimately also donated to the other campaign.

23 I will see unequivocally that we found no indication of  
24 any pay for play activity between Mr. Walker and the Scott  
25 Walker Campaign. There was no evidence of a, shall we say, a

1 quid pro quo, in exchange for these contributions of money  
2 that are set forth in the criminal complaint. Clearly that  
3 sort of evidence would have warranted a different disposition  
4 in this matter.

5 The Court should also know that we had fairly extensive  
6 insight into the communications between Mr. Walker's Campaign  
7 and Mr. Gardner. We executed a search warrant, as set forth  
8 in the criminal complaint, at the railroad headquarters. And  
9 we had access to the E-mails that were exchanged between the  
10 campaign and between Mr. Gardner. We also obtained similar  
11 evidence from independent sources. We have reviewed all of  
12 those E-mails closely. And they themselves do not contain  
13 any indication of improper quid pro quo pay for play type  
14 discussions between Mr. Gardner and the campaign. Similarly,  
15 in those E-mails there is no indication that the campaign  
16 itself was encouraging Mr. Walker, excuse me, Mr. Gardner to  
17 donate laundered money.

18 So in the final analysis I think the contributions that  
19 he made were intended to gain access and he was successful in  
20 that regard. He had several personal meetings with the  
21 candidate. Indeed he obtained the candidate's personal  
22 E-mail address.

23 Not every campaign finance violation reported to the  
24 Government Accountability Board and/or a district attorney's  
25 office results in filing of criminal charges. Indeed the